IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA

CWP No. 398 of 2006

Date of decision: 23.04.2007

Surjeet Singh Bhurji	… Petitioner
Versus	
Union of India and another	… Respondents

Coram:

The Hon'ble Mr.Justice Deepak Gupta, J.

The Hon'ble Mr Justice Surinder Singh,J.

Whether approved for reporting ?[2]

For the Petitioner	**Mr Atul Jhingan, Advocate.**
For respondent No.2	**Mr M S Chandel, Advocate General, with Mr Ram Murti Bisht, Deputy Advocate General.**
For respondent No.1	**Mr Anup Rattan, Central Government Counsel.**

Deepak Gupta,J. (Oral)

With the consent of the learned counsel for the parties, we dispose of this petition at the admission stage itself.

The grievance of the petitioner is that he along with his brother is running a Unit known as "M/S Hesbee & Company Gun Makers", at Mandi. It is

[2] ***Whether the reporters of Local Papers may be allowed to see the judgment ?***

an admitted fact that these two brothers have inherited M/S Hesbee & Company from their father in the year 1981. In the year 1993 the petitioner and his brother moved an application, for bifurcation of their gun manufacturing Unit, with the prayer that two separate licenses may be given. According to the petitioner, the relations between him and his brother are not cordial and, therefore, the license which is joint in their names be bifurcated in two licenses, even though the total capacity may be kept the same and each one of the brothers be granted license to manufacture 50% of the total licensed quota. This prayer of the petitioner and his brother was rejected by the Union of India in the year 1997. According to the petitioner, he made representations to the respondents thereafter but has not received any reply.

In our opinion, it is too late for the petitioner, to challenge the order dated 9th September, 1997. However, the petitioner's right, if any, to seek bifurcation of the Unit would be a continuing right and there may be fresh circumstances to support the case of the petitioner.

We, therefore, feel that interest of justice can be served by disposing of the petition with the following directions:

a) that the petitioner along with his brother shall jointly move an application for bifurcation of their concern M/S Hesbee & Company Gun Makers, to the respondents within a period of one month from today. It is made absolutely clear that the application should be signed by both the brothers and in case it is not signed by both the brothers, the same shall not be considered by the respondents.

b) On such an application being made, the state Government shall give its recommendations within a period of two months from the date of the receipt of the application and forward the same to respondent No.1 Union of India.

c) The respondent No.1 (Union of India) shall take an appropriate

decision thereafter within a period of three months, from the receipt of the recommendations of the State Government. The competent authority shall pass a reasoned order, either rejecting or accepting the prayer of the petitioner.

The writ petition is disposed in the aforesaid terms. We would like to make it clear that we have not expressed any opinion on the merits of the case. We have also not expressed any opinion as to whether there is any right vested in the petitioner to get the manufacturing license bifurcated. All these aspects of the matter shall be decided by the competent authority.

(Deepak Gupta),J.

April 23, 2007 (Surinder Singh),J.
(D)